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TAGS: [ECPS](#) [KJUS](#) [FR](#)

SUBJECT: FRANCE: APPEALS COURT UPHOLDS DECISION CLEARING  
YAHOO

Ref: (A) 03 Paris 1138

(B) Paris 2040

[1](#)1. Summary: In the most recent development in the on-going legal dispute between Yahoo Inc. and French anti-racism groups, a French court exonerated former Yahoo CEO Timothy Koogole of responsibility for providing links to now-defunct internet auctions of Nazi paraphernalia. End summary.

[1](#)2. A ruling delivered on April 6 by a Paris appeals court upheld a lower court's 2003 ruling (ref A) that cleared former Yahoo CEO Timothy Koogole of charges that promoted the sale of Nazi paraphernalia in France via Yahoo action websites based in the U.S. The sale or display of Nazi-related items is banned in France, and Yahoo's French subsidiary, Yahoo France, has complied with this law. However, the French Yahoo website provided links to the American version of the site, which formerly contained auction pages for Nazi items. French human rights groups requested that Yahoo block French users from accessing the Nazi content on the American site; Yahoo responded that this was impractical. As a result, a lawsuit was brought against Koogole and Yahoo in 2000 by two French groups, the League Against Racism and Antisemitism and the Union of Jewish Students of France. The ensuing legal dispute has lasted for five years.

[1](#)3. Koogole left Yahoo in 2001 and recently became CEO of the internet networking company Friendster. A lower court ruling absolved him of wrongdoing in 2003, a decision that was upheld in the most recent decision by the Paris appeals court. Oliver Metzner, the lawyer representing Koogole, stated, "This judgment confirms that Koogole and Yahoo have always respected French law." Nazi-related items have since been banned from the auction pages of the American Yahoo website as a matter of corporate policy. However, Charles Korman, a lawyer representing the League Against Racism and Antisemitism stated that the ruling would be appealed to the Cour de Cassation, the Supreme Court for French civil cases. The appeals court decision can only be overturned by the Supreme Court on formal legal grounds, in which case the suit would begin again at the lower court. Despite Korman's recent statement, there has been no indication that the necessary legal grounds exist for the Cour de Cassation to review the case.

[1](#)4. Comment: Some in France have argued that, in the eyes of the U.S., they can do no right, criticized both for recent increases in anti-Semitic acts (reftel B) as well as for impeding free speech when attempting to combat what they view as a legitimate cause of the phenomenon: internet hate sites and internet auctions of nazi paraphernalia. The way the Yahoo case has gone to date, it appears that the courts are not inclined to impede free speech, at least not with respect to Internet content originating outside the European Union. Post recalls that in mid-2004, two Assistant U.S. Attorneys General spoke on the issue at an OSCE conference in Paris on the relationship between racist, xenophobic, and anti-Semitic hate crimes and the internet. One stated, "Government efforts to regulate bias-motivated speech on the Internet are fundamentally mistaken." Fortunately, this latest (and probably final) round of the Yahoo case does not cross this boundary. End comment.

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